

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11014 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

KESHAV CHUNA GADIYAL

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

1. Special Civil Application No. 11014 of 1998
MS SADHANA SAGAR for Petitioner No. 1
MR MD PANDYA for Respondent No. 1-2
RULE SERVED for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 10/03/2004

ORAL JUDGEMENT

In this petition the grievance of the petitioner
is that despite having been appointed as part time kamdar

since 20th January, 1978, his service has not been regularized. In other words, his service has not been regularized even when he has put in about 26 years of service on part time basis.

1.1. As stated above, the petitioner was appointed in the employment of respondent no. 1 on part time basis as kamdar on 20th January, 1978. Initially, he was required to render service for 2 hours in a day. The working hours thereafter were increased upto two hours with effect from 20th July, 1980. Thereafter, from 7th December, 1980, he was required to work for six hours in a day. His request to absorb him on permanent basis in the employment has not been accepted and he has been continued as part timer.

2. As against that, no affidavit has been filed by the other side and the averments made in the petition remain uncontroverted.

3. The question regarding regularization of service on temporary or part time employee who has put in number of years of service has been considered and decided by this Court on 17th February, 2004 in Special Civil Application No. 10518 of 1998, which was filed against the present respondent - Board. In view of the said judgment, the present petition is required to be allowed since the issue involved in it stands squarely covered by the decision in the aforesaid matters and it is hereby ordered to be allowed with the following directions :-

The respondents are, therefore, now required to be directed that irrespective of the Circular of 21st August, 1995, they shall consider the case of petitioner for appointment on permanent post in Class-IV and if the permanent posts are found vacant, the petitioner shall be appointed on the same in accordance with his claim, in the matter of seniority and the Regulations and if otherwise, he is not ineligible. Appointment should not be denied on the ground of overage or on the ground that it may amount to giving a back-door entry. This exercise to be carried out as early as possible but in any case not later than 30th May, 2004. If need be, the petitioner can make appropriate representation, which will be considered in light of this judgment and in particular, the direction given therein.

The petition is, therefore, partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

[AKSHAY H. MEHTA, J.]

/phalguni/